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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States parties

SRI LANKA

V.87-80720

UPDATED REPORT ON OBSERVATIONS ON THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

1. Articles 1, 2, 3, 4

Sri Lanka has recognized the principle that the discrimination against women is fundamentally unjust and constitutes an offence against human dignity.

Article 12 (1) of the Constitution of the Democratic Socialist Republic of Sri Lanka expressly declares -

"All persons are equal before the law and are entitled to the equal protection of the law".

Further, article 12 (2) of the said Constitution states -

"No citizen shall be discriminated against on the ground of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds".

In terms of article 12 (3) of the Constitution -

"No person shall on the ground of race, religion, language, caste, sex or anyone of such grounds be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hostels, places of public entertainment and places of public worship of his own religion".

Thus the Constitution itself provides right to equality which can be enforced through the Supreme Court and the article 126 of the Constitution.

2. Article 5 - No observations.

3. Article 6 -

All forms of traffic in women and exploitation of women and prostitution of women.

In Sri Lanka, prostitution is pronibited and declared as an offence. Further, any person who procures any girl under 21 years of age to leave Sri Lanka with a view to illicit sexual intercourse with any person outside Ceylon coumits a penal offence. Also it is a penal offence for any person to procure any girl or woman to become a prostitute within or outside Ceylon. The Penal Code of Sri Lanka also prohibits to export or import any person as a slave.

4. Article 7 - Franchise

In Sri Lanka, irrespective of sex, every person above the age of 18 years is entitled to vote in all elections, and public referendums. This includes right to vote at elections for the office of President, all members of Parliament and local authorities. (Vide article 88 of the Constitution). There is no discrimination on the ground of sex for any person to contest the office of President, Member of Parliament or a member of any local body. Generally, every person who is qualified to be an elector shall be qualified to be elected as a Member of Parliament. (See article 90 of the Constitution). In terms of article 92 of the Constitution, every person who is qualified to be an elector above the age of 30 years is qualified to be elected to the office of President.

5. Article 8 - Equality in representation and participation - No observations.

6. Article 9 - Citizenship

There is no discrimination in relation to the citizenship on the ground of sex. In Sri Lanka, there are several races and the wife is treated as of the race of her husband for certain purposes. On marriage the wife acquires the rank and dignity of her husband and continues to retain them during her widowhood as well. She also acquires her husband's domicile though not his citizenship unless she opts to do so.

7. Article 10 - Equal rights in the field of education.

There are no legal provisions discriminating women in this area. Article 12 (2) of the Constitution embodies principles of equality and any infringement could be challenged in the Supreme Court under article 126 of the Constitution. Further, there is no discrimination on the ground of sex with regard to admission to any University, Law College or any other professional institution. The disqualification which existed in legal education was removed by Sex Disqualification Removal (Legal Professions) Ordinance (CLE Vol. 3 Cap. 65 page 116). There is also no legal impediment for any women to join the teaching staff or to receive any scholarship. Every person has a right to access to programmes of continuing education including adult literary programmes, irrespective of sex.

8. Article 11 - Equal rights in the field of employment.

There are no special laws which discriminate women married or unmarried in socio-economic life. The Maternity Benefits Ordinance (CLE Vol. V Cap. 140) and Shop and Office Employees Ordinance (CLE Vol. V Cap. 129) ensures effective right of women to work and not to be discriminated on the ground of marriage or maternity. The said Maternity Benefits Ordinance, in addition to two subsequent amendments, was further amended by the Maternity Benefits (Amendment) Act, No. 43 of 1985 to ensure more protection and sufficient periods of maternity leave for women.

This Act, in Section 3 (1) specifies - "The period for which any woman should be entitled to the payment of maternity benefit shall be -

a) Twelve weeks, that is to say two weeks up to and including the day of her confinement and ten weeks immediately following that day, if the confinement results in the issue of a live child, and such woman has, at the date of such confinement, no child or has one child;

b) Six weeks, that is to say two weeks up to and including the day of her confinement and four weeks immediately following that day -

(i) If the confinement results in the issue of a live child, and such woman has, at the date of such confinement, two or more than two children;

(ii) If the confinement does not result in the issue of a live child;

Provided however, where such a woman has worked in her employment for any number of days during the aforesaid period of two weeks referred to in paragraphs (a) and (b), she shall be

entitled to the payment of maternity benefit for that number of days immediately after her confinement commencing the day immediately after the date on which the aforesaid period of ten weeks or four weeks as the case may be, ends".

Legislation was also introduced in 1984, by the 'Employment of Women, Young Persons and Children, The Factories and the Shop and Office Employees (Regulation of Employment and Remuneration) (Amendment) Act, No. 32 of 1984 to provide for the employment of women at night in factories and industrial undertakings, to provide safeguards for the protection of women working at night and to provide for matters connected therewith or incidental thereto. The employment of women at night is subject to the following conditions:

a) no woman shall be compelled to work at night against her will;

b) that written sanction of the Commissioner of Labour should be obtained by every employer, prior to the employment by him of women to work after 10 p.m. at night;

c) no woman who has been employed during the hours of 6 a.m. and 6 p.m. shall be employed after 10 p.m. on any day;

d) every woman who works at night shall be in receipt of a payment of not less than one and a half times the normal payment received by her;

e) there shall be appointed female wardens to see to the welfare of the women workers who work at night;

f) every woman worker working at night shall be provided with rest rooms and refreshments by the employer;

g) no woman shall be employed for more than ten days at night work, during any one month.

9. Article 12 - Discrimination against women in the field of health.

There are no special laws restricting access to health care services.

10. Article 13 - Discrimination in the areas of economic and social life.

There are no legal impediments in this area.

11. Article 14 - Problems faced by rural women.

No observations.

12 Article 15 and 16 - Equal rights with men in civil law.

The Married Women's Property Ordinance, No. 8 of 1923 which came into operation on 12.04.1924 was a landmark in the emancipation of women. This conferred on married women the status of femme - sole and many of the disabilities of married women under the Roman Dutch Law were removed. The concept of community of property of marriage too was abolished, and the wife has a right to own or dispose of any property without the consent of the husband. In Sri Lanka, the age of majority is fixed at 21 years, but

it could be conferred by operation of law according to the Age of Majority Ordinance. The majority also can be obtained by marriage. A dissolution of the marriage before she reaches the age of 21 years does not revive the minority. Males as well as females have the same legal capacity to sell or dispose of any property either movable or immovable. There is no restriction on freedom of movement on the ground of sex. (Vide article 14 (1) (h) of the Constitution).

The General Marriages Ordinance prescribes the law relating to marriages. According to this law, women have the same rights as men to choose a spouse and to enter into marriage upon their free and full consent. The General Marriages Ordinance, which was enacted in 1907, provides that males above the age of 16 years and females above the age of 12 years have the capacity to marry and marriages below that age are prohibited. Where a marriage is contracted between the parties below the said age, such marriages are ipso-facto null and void.

In Sri Lanka, the General Marriages Ordinance makes it mandatory to register all marriages.

13. Articles 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 - No observations.